

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Matthew Chaves	Team: Squad #07	CCRB Case #: 201903743	<input checked="" type="checkbox"/> Force <input type="checkbox"/> Discourt. <input type="checkbox"/> U.S. <input type="checkbox"/> Abuse <input type="checkbox"/> O.L. <input checked="" type="checkbox"/> Injury
Incident Date(s) Thursday, 11/01/2018 11:00 PM	Location of Incident: Queens Central Booking	18 Mo. SOL 12/16/2020	Precinct: 102
Date/Time CV Reported Tue, 11/06/2018 12:00 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 11/13/2018 11:07 AM

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Edwin Peguero	24835	953225	QNS CT
2. Officers			
3. LT Maripily Clase	00000	939818	TB DT30
4. SGT Freddy Ynoa	02398	943974	QNS CT
5. POM Melvin Welch	02051	949793	083 PCT
6. POM Makinston Courtois	20124	940027	QNS CT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. LT Andy Wong	00000	927821	QNS CT

Officer(s)	Allegation	Investigator Recommendation
A . Officers	Force: Officers used physical force against § 87(2)(b)	
B . POM Edwin Peguero	Force: Police Officer Edwin Peguero used physical force against § 87(2)(b)	
§ 87(2)(g), § 87(4-b)		

Case Summary

On November 6, 2018, IAB received a 311 complaint filed by § 87(2)(b) on behalf of her brother, § 87(2)(b). IAB referred the complaint to the CCRB, where it was received on November 13, 2018.

At approximately 11:00 p.m. on November 1, 2018, Police Officer Edwin Peguero of the Queens Court Section escorted § 87(2)(b) to a new cell inside the Queens Central Booking jail, located at 125-01 Queens Boulevard in Queens. As § 87(2)(b) reached the new cell, multiple law enforcement officers allegedly knocked him to the ground and fought with him (**Allegation A: Force: Physical Force:** § 87(2)(g)). Police Officer Peguero stomped and kicked § 87(2)(b) multiple times while § 87(2)(b) was on the floor (**Allegation B: Force: Physical Force:** § 87(2)(g)). Two attorneys, § 87(2)(b) of The Legal Aid Society and § 87(2)(b) of Queens Law Associates, observed portions of this incident. § 87(2)(g), § 87(4-b)

§ 87(2)(b)

§ 87(2)(b)

Police Officer Peguero's CCRB history contains a pattern of allegations relevant to this incident.

The investigation obtained no video from this incident.

Findings and Recommendations

Allegation A – Physical Force: Officers used physical force against § 87(2)(b)

Allegation B – Physical Force: Police Officer Edwin Peguero used physical force against § 87(2)(b)

§ 87(2)(b) provided a sworn statement over video teleconference on December 21, 2018 (**Board Review 01**). § 87(2)(b) provided a telephone statement on August 26, 2019 (**Board Review 02**), and was interviewed at the Queens Law Associate offices on September 9, 2019 (**Board Review 03**). § 87(2)(b) was interviewed at the Legal Aid Society's Queens office on October 21, 2019 (**Board Review 04**). Police Officer Peguero was interviewed by Lieutenant Lawrence Biondo of the NYPD's Criminal Justice Bureau on December 11, 2018 (**Board Review 12**). Police Officer Peguero was interviewed by the CCRB on September 5, 2019, and December 20, 2019 (**Board Review 05, Board Review 06**). Lieutenant Andy Wong of the Queens Court Section was interviewed on January 23, 2020 (**Board Review 07**).

It is undisputed that on the incident date, NYPD officers arrested § 87(2)(b) transported him to the Queens Central Booking jail, and transferred him to Department of Corrections (DOC) custody. (NYPD officers are responsible for certain portions of the jail, while DOC officers handle other parts). While in DOC custody, § 87(2)(b) had some type of disagreement with DOC officers that led to him being escorted to a new, single-occupancy cell called the "remand cell." Upon reaching the remand cell, § 87(2)(b) sustained bruises, cuts, and swelling on his face. How he sustained these injuries is disputed.

In his sworn statement, § 87(2)(b) stated that he told a female officer to put a smile on her face. The female officer walked away, and approximately six male officers escorted § 87(2)(b) to a new cell. While the group walked from the first cell to the second cell, an officer told § 87(2)(b) “You should never had said that to that lady.”

When § 87(2)(b) reached his new cell, an officer punched him in the left side of his face. § 87(2)(b) fell to the floor, and other officers started punching and kicking him in the back, ribs, stomach, and face.

In her sworn statement, § 87(2)(b) stated that she walked into the hallway leading to the remand cell and saw § 87(2)(b) laying on the floor immediately outside of the cell. At least three uniformed officers were grappling with § 87(2)(b) and “were beating the hell out of him.” The officers twisted § 87(2)(b) arm sharply behind his back, apparently trying to handcuff him.

An officer straightened his body up away from § 87(2)(b) and stomped forcefully downwards on to § 87(2)(b) body. He stomped one time on to § 87(2)(b) groin so that his foot struck either § 87(2)(b) genitals or upper, inner thigh. He also stomped multiple times so that his foot landed on or near § 87(2)(b) head and face. The stomps apparently prompted § 87(2)(b) to scream in pain.

§ 87(2)(b) called out “Hello! There’s an attorney here, you guys need to stop.” She then walked to the Queens Law Associates office attached to the jail and told the lawyers there that officers were attacking a prisoner.

In his sworn statement, § 87(2)(b) stated that he was working in the Queens Law Associates office when he heard § 87(2)(b) announcement. He left the attorneys’ office and walked to the door that connected to the jail cells. As soon as he opened the door, § 87(2)(b) heard approximately four “dull thumping” or “thud” sounds that were “quite loud.” He walked to the hallway leading to the remand cell, and saw § 87(2)(b) prone on the floor, surrounded by approximately five or six uniformed NYPD and DOC officers. Because of his job, § 87(2)(b) was familiar with the differences in uniform and logos between NYPD and DOC officers.

Police Officer Peguero kicked § 87(2)(b) in the torso and the head approximately three or four times. Each of the kicks produced the same “dull thump” sound that § 87(2)(b) heard when he opened the jail’s door. As § 87(2)(b) lay in the cell, he “yelped” in apparent pain.

§ 87(2)(b) watched the incident for approximately five seconds, then walked down the hall and asked, “What’s going on?” § 87(2)(b) stopped approximately ten feet away from the officers and the remand cell threshold. The officers did not reply, but Police Officer Peguero stopped kicking § 87(2)(b). The officers filed out of the remand cell and walked down the hall, past § 87(2)(b). § 87(2)(b) kept his vision focused on Police Officer Peguero as the officers left the remand cell and read his name tag, which was attached to his chest along with a silver shield. He then spoke to § 87(2)(b) who was still inside the remand cell, and observed his facial injuries.

Later that evening, § 87(2)(b) handwrote, signed, and dated a short summary of the incident and added it to QLA’s file regarding § 87(2)(b) (**Board Review 09**). The summary reads “On 10:25 p.m. I observed officer Peguero kicking § 87(2)(b) in the head while § 87(2)(b) was confined in the remand cell at Queens Central Booking. § 87(2)(b) was bleeding heavily from his face after the incident. He begged to be taken to a hospital.”

In their interviews, Lieutenant Wong and Police Officer Peguero stated that DOC

officers put § 87(2)(b) back into NYPD custody after an argument over telephone access. Lieutenant Wong instructed Police Officer Peguero to escort § 87(2)(b) to the remand cell, and Police Officer Peguero did so. Lieutenant Wong did not go with Police Officer Peguero and § 87(2)(b) to the remand cell, and did not see what happened next. According to Police Officer Peguero, when he and § 87(2)(b) reached the remand cell entrance, § 87(2)(b) dropped to the floor and banged his head against the cell door, bruising and cutting his face. Police Officer Peguero pushed § 87(2)(b) into the remand cell, closed the door, and walked back to Lieutenant Wong's post to report the incident. At Lieutenant Wong's instruction, Police Officer Peguero prepared a Medical Treatment of Prisoner report (MTPR). Police Officer Peguero's MTPR documented § 87(2)(b) injuries and ascribed them to self-injury (**Board Review 08**). After preparing the MTPR, Police Officer Peguero left the jail. Police Officer Peguero did not check on § 87(2)(b) after seeing him self-injure, as it was his end-of-tour. In his NYPD and CCRB interviews, Police Officer Peguero denied using any physical force against § 87(2)(b) except briefly pushing him, and denied seeing any other officer use force.

It is undisputed that this incident occurred in a jail that is staffed by both NYPD and DOC officers. § 87(2)(b) stated that both NYPD and DOC officers were involved in this incident, but was not able to describe them in detail or ascribe specific actions to them beyond Police Officer Peguero. Both § 87(2)(b) and § 87(2)(b) were unable to determine what agencies the involved officers belonged to. Police Officer Peguero did not recall whether any officers from either agency worked with him during this incident.

§ 87(2)(b) stated that neither she nor any other Legal Aid Society lawyer ever represented § 87(2)(b) in court. § 87(2)(b) stated that he never represented § 87(2)(b) but that § 87(2)(b) of Queens Law Associates initially represented him before a private attorney took the case. These statements are corroborated by OCA records that show § 87(2)(b) as § 87(2)(b) attorney as of January 15, 2019, but a private attorney named § 87(2)(b) as § 87(2)(b) attorney on January 29, 2019 (**Board Review 10**).

The allegations in this incident do not deal with the criminal charges against which Queens Law Associates partially defended § 87(2)(b). Neither of the CCRB witnesses participated in that criminal case, and by the time the CCRB obtained their statements, Queens Law Associates had not represented § 87(2)(b) for approximately eight months. The CCRB contacted § 87(2)(b) and § 87(2)(b) to obtain their statements, not the other way around. Taken in totality, the evidence indicates that § 87(2)(b) or § 87(2)(b) were independent witnesses to this incident.

Police Officer Peguero's narrative is uncorroborated by any outside source. Given § 87(2)(b) and § 87(2)(b) independence and the consistency between their statements and § 87(2)(b) the investigation credits their collective account that multiple officers, including Police Officer Peguero, used force during this incident, injuring § 87(2)(b) face. The fact that § 87(2)(b) handwrote a contemporary account of this incident, including the correct spelling of Police Officer Peguero's name, further supports the civilian narrative.

Under NYPD Patrol Guide procedure 221-01, in all circumstances, any application or use of force by officers must be reasonable under the circumstances (**Board Review 11**).

§ 87(2)(g)
§ 87(2)(b) § 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g), § 87(4-b)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (**Board Review 13**).
- § 87(2)(b)
- Police Officer Peguero has been a member of service for seven years and has been a subject in seven CCRB complaints and 12 allegations, of which one was substantiated.

§ 87(2)(g)

- CCRB case number 201402042 involved a substantiated allegation physical force (punched/kicked/knead) against Police Officer Peguero, who repeatedly struck a civilian inside a stationhouse cell. Other officers also used excessive force, and they collectively fractured multiple bones in the civilian's face and spine. While no false official statement was pled, the investigation found Police Officer Peguero's statement incredible when compared to independent witness testimony and medical records. The Board recommended Command Discipline B and the NYPD imposed Command Discipline B.
- CCRB case number 201801827 was referred by the NYPD for documented Level 2 force, but was closed as complainant unavailable. Police Officer Peguero allegedly

took a prisoner to the ground inside Queens Central Booking after the prisoner allegedly spat in another officer's eye. The prisoner was examined at a hospital and had a bruised eye, back, and "lower extremity". When the prisoner returned to the jail, the spit-upon officer allegedly punched her while Police Officer Peguero allegedly held her down.

- CCRB case number 201806748 was closed as alleged victim uncooperative. Police Officer Peguero was allegedly one of four officers who took a Queens Central Booking prisoner to a back room after the prisoner complained his handcuffs were too tight. The officers allegedly struck the prisoner and put their knees on his back and neck.

Mediation, Civil and Criminal Histories

- This complaint was unsuitable for mediation.
- A request for any Notice of Claim filed regarding this incident has been submitted to the New York City Office of the Comptroller and the results will be added to the case file upon receipt.

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
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Squad No.: 7

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date